

Service Date: September 27, 1996

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Pass Through of Fees)	UTILITY DIVISION
Levied on Regulated Companies for Funding the)	DOCKET NO. D96.9.155
Department of Public Service Regulation.)	ORDER NO. 5943

FINAL ORDER

1. Section 69-1-402, MCA, provides for funding the Department of Public Service Regulation by a fee on all regulated companies (as defined in § 69-1-401(2), MCA). The Department of Revenue has notified the Public Service Commission (PSC) of the tax rate which will be effective for the period beginning October 1, 1996 and ending September 30, 1997. Section 69-1-403(4), MCA, requires that the PSC "by separate order authorize each regulated company to fully recover in its rates and charges, on an annual basis, the fees levied" This Order is being issued pursuant to that requirement.

2. Order No. 5871, issued October 30, 1995, authorized regulated companies to increase rates and charges for an annual period from October 1, 1995 through September 30, 1996. The authorized rate during that period was .18 percent (.0018).

3. The applicable rate for the tax period beginning October 1, 1996 remains .18 percent (.0018). In order to permit full recovery of the PSC fees, it is the PSC's intention to permit all affected regulated companies to reflect this tax rate in their revenue requirement as of October 1, 1996.

4. As necessary, all regulated companies that pay the PSC fee may file tariffs reflecting the .18 percent tax rate. This means that overall, and considering the expiration of Order No. 5871 on September 30, 1996, companies collecting the .18 percent rate authorized in Order No. 5871 will not be required to change their rates.

5. Effective October 1, 1995 the PSC has no jurisdiction over municipal utilities. See §§ 69-7-101 - 201, MCA. Therefore, municipal utilities are not "regulated companies" as defined at § 69-1-401(2), MCA, and are not subject to the PSC tax.

6. On September 30, 1996 the authorization granted to regulated companies by Order No. 5871 to recover the former tax rate of .18 percent (.0018) will expire. Because the new rate represents no change from the current rate, those regulated companies whose current tariffs are premised in part upon this rate are not required to file new tariffs reflecting the expiration of this authorization. It is assumed that these companies will continue to implement the .0018 tax rate. For regulated companies the filing of tariffs reflecting the rate authorized by this Order is permissive, not mandatory. Regulated companies may choose not to recover the PSC tax in cases where the amount to be recovered would not justify submitting new tariffs. A regulated company may choose to defer implementing tariffs reflecting the tax until a later date (e.g., to coincide with other tariff changes). It should be noted, however, that the revenue requirement may not be accumulated unless otherwise authorized by the PSC.

7. It is the PSC's intention that all regulated services of a regulated company absorb the rate increase proportionately to that service's contribution to the total gross operating revenue generated by the regulated activities within this state. As limited exceptions to this general approach, however, the floors in "flexible band" tariffs need not be exceeded and special market-based rates need not be increased.

CONCLUSIONS OF LAW

1. Pursuant to §§ 69-3-102, 69-13-201 and 69-14-111, MCA, the Montana Public Service PSC has jurisdiction over regulated companies as defined at § 69-1-401, MCA.

2. The Public Service Commission is required by Section 69-1-403(4), MCA, to allow immediate recovery of the regulated utility fee by each affected company in its rates and charges on an annual basis.

3. The increased revenue requirement approved herein is a reasonable means of complying with §§ 69-1-402 et seq., MCA.

ORDER

As necessary, regulated companies as defined in § 69-1-401, MCA, are authorized to file tariffs reflecting increased rates and charges effective October 1, 1996, consistent with the Findings of Fact contained in this Order. This authorization is permissive, not mandatory and effective dates may, at the companies' discretion, be after October 1, 1996.

Tariffs must be filed within fifteen (15) days of their proposed effective date.

Done and Dated this 23rd day of September, 1996 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

NANCY MCCAFFREE, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.